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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 KEVIN GIEL,

12 Plaintiff,

13 v.

14 GENERAL MOTORS ACCEPTANCE
CORPORATION (GMAC) et al.,

15 Defendants.

Case No. C07-5270RJB

ORDER DENYING PLAINTIFF'S
MOTION TO AMEND JUDGMENT
OR IN THE ALTERNATIVE FOR A
NEW TRIAL ON PLAINTIFF'S
CLAIMS UNDER THE
WASHINGTON STATE SECURITIES
ACT

16 This matter comes before the court on the above-referenced motion (Dkt. 99). The court has
17 considered the records and files herein, documents filed in support of and in opposition to the motion
18 and the events of the trial. For the following reasons, the motion should be denied.

- 19 1. The court's instructions to the jury (Dkt. 90), jury verdict (Dkt. 93) and responses to
20 the jury's questions (Dkt. 91), were all entirely appropriate. Plaintiff did not take
21 exceptions to any of the court's instructions.
- 22 2. Plaintiff's Motion asks that the court make assumptions as to what went on in the jury
23 room and in the jury's mind. That is not appropriate.
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26 ORDER DENYING PLAINTIFF'S MOTION TO AMEND JUDGMENT OR IN THE ALTERNATIVE FOR A NEW
TRIAL ON PLAINTIFF'S CLAIMS UNDER THE WASHINGTON STATE SECURITIES ACT - 1

1 3. The legal elements of plaintiff's federal claim and plaintiff's state claim are
2 substantially different. *See* Court's Instructions No. 9 and No. 10 of Docket No. 90.
3 For that reason, the fact that the jury reached different conclusions on the federal and
4 state claims does not indicate that the verdict on each claim was inconsistent.
5 Even if the verdicts were inconsistent, however, they should not be set
6 aside. The verdicts in this case were general, not special, verdicts,
7 (*See* Dkt. 93), as defined in Zhang v. American Gem Seafoods Inc.,
8 339 F.3d 1020, 1031-32 (9th Cir. 2003). As is also reflected in Zhang,
9 339 F.3d at 1035-36, it is inappropriate to set aside inconsistent
10 general verdicts. In addition to the reasons for this rule set out in
11 Zhang at page 20, a contrary rule would impinge on a jury's inherent
12 right to reach a compromise verdict.

13 4. The court agrees with defendant that this motion is more akin to a Federal Rule of
14 Civil Procedure 50 motion than a Rule 59 motion, but, in any event, plaintiff does not
15 make a sufficient showing under Federal Rules of Civil Procedure 50, 51, 59, or 60 to
16 justify amendment of the judgment or a new trial.

17 For the foregoing reasons it is now

18 **ORDERED** that Plaintiff's Motion to Amend Judgment or in the Alternative for a New Trial
19 on Plaintiff's Claims Under the Washington State Securities Act (Dkt. 99) is hereby **DENIED**.

20 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of
21 record and to any party appearing *pro se* at said party's last known address.

22 DATED this 7th day of January, 2009.

23 
24 ROBERT J. BRYAN
25 United States District Judge